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Justice News

Fordham Law School Commencement Address Radio City Music Hall Prepared Remarks Of U.S. Attorney Preet Bharara

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Dean Martin, Father McShane, distinguished faculty, proud parents, family, friends, and most of all, to the graduating class of 2013, congratulations on your accomplishments today.

Thank you for inviting me to speak here today. It is more than a privilege.

I want to give a special shout out to one group of graduates present today – the students who supplemented their fine Fordham educations with some practical training as interns in my Office. I think there are 23 of you here. Congratulations to you and thanks for the free labor.

I may not be an alumnus of this fine institution, but I was a proud teacher of legal writing here for two years before taking a job in Washington and I will always be grateful more for what I learned than what I taught at Fordham.

So here we are, all dressed up on a Sunday morning. And it occurs to me that many of you, quite frankly, should be in church – especially after last night's parties.

But I guess you have a pretty good excuse today.

Now, if you would indulge me, even though we are not in church, I would like to spend my short time here talking about what I think is an important question of faith.

But the question of faith that I have in mind does not relate to any particular book of scripture or doctrine of theology.

Rather, I want to address the question of faith in the profession on which you are now embarking.

Here's a newsflash: not everyone is enamored of lawyers. I hope that's not too much of a buzz kill on graduation day.

And these days, it is understandably hard, sometimes, to have full faith in the legal profession. A lot of it we bring on ourselves – lawyers have no doubt done things to earn much of the mockery and disdain often dispensed upon us.

Our reputation is that we talk too much; we argue too much; we sue too much; we bill too much. That we are too litigious, too scorched-earth, too materialistic, too self-interested. That we exalt form over substance; we cause more problems than we solve; and we are prepared to win at any cost.

But this dubiousness about lawyers and about what they are capable of contributing is not, by any means, a new phenomenon. Consider the story of the man who would become one of the most important and influential lawyers in U.S. history.

That lawyer was Oliver Wendell Holmes, Jr., the late Supreme Court Justice. You see, his father, Oliver Wendell Holmes, Sr., was a medical doctor.

Almost a century and a half ago, after the son recovered from his third wound suffered in the Civil War, he decided finally to pursue a path in the law. As the story goes, Oliver Wendell Holmes, Jr., knocked on the door of his father's study to advise him of this decision. He announced to his father, "I am going to law school."

The elder Dr. Holmes looked up from his desk, surveyed his son, and said, "What's the use of that, Wendell? A lawyer can't be a great man."

And so as Justice Holmes would himself often recount, he spent much of his life trying to prove his own father wrong, that a lawyer could indeed be a great man.

Notwithstanding Justice Holmes's remarkable lifetime rebuttal of his father's narrow-minded remark, there are still too many today who may sympathize with the sentiments expressed by the elder Holmes so long ago.

In my view, part of the cynicism about lawyers springs from a failure to appreciate the majesty and power of the law itself, especially as an embodiment of American values and as a source of American greatness.

Now, our system of laws is not perfect and God knows there are imperfect practitioners within that system (you're looking at one of them), but what the system aspires to do deserves respect, and perhaps even awe.

And that system should never be taken for granted because what we have is truly exceptional.

Among other things, in this country, the law is the great equalizer. In this country, no one is above the law, no matter who you are, who you know, or how much money and power you possess.

And there are precious few countries, even in 2013, where that would not be a completely laughable statement.

What's more, the law not only equalizes; in this country, where more languages and cultures and cuisines coexist than anywhere else, the law also binds us together in ways that we too seldom

appreciate. In a way and over time, the law has become part of the essential social and cultural glue of America.

And so, we may not be in church this morning. But we are nonetheless, I think, celebrating something quite special and even sacrosanct.

Because whatever name you give your God; whatever book you deem scripture; whatever rituals of religious faith you observe; whether you are orthodox or reformed; whether you are devout or lapsed; whether you pray or not, if you are an American, you are bound to every one of your fellows in the greatest country that has ever existed by a pious faith in enduring principles of liberty and equality and the rule of law.

That is the founding formula for our country, for our democracy, for our prosperity.

That is the reason that people of all faiths and all colors and all cultures come here; that is the reason that those same people invest here and build here and stay here.

That's the reason my own family came. And it is the reason that I am standing before you today – the son of a father who came from virtually nothing, who was born 74 years ago in a colony still ruled in the name of the King of England, who later absconded to the U.S. with barely pennies in his pocket and with a young wife and an infant son with an unpronounceable name – who, less than forty years later, has somehow become the chief federal law enforcement officer in the financial capital of the world and is now improbably speaking before a captive audience of thousands in Radio City Music Hall.

Now, how a kid like me, named Preet Bharara, who hails from Punjab, India – by way of Jersey(!) – is even permitted to be up here, at this podium, on this morning, for this occasion, is almost beyond my humble power to process. And yet here we are.

Part of the reason that this can be, I believe, is that the United States has built a system of laws (even if flawed and frequently in need of repair) that enshrines the right to equal opportunity and embodies the sacred American ideal that every child – even a poor or orphaned or immigrant child – can rise higher than that child's parents could ever have imagined.

And so the law – provided that it is wisely fashioned and righteously applied and faithfully interpreted and nobly practiced by enough people of good will and good faith – provides the bedrock foundation for the freedom, the opportunity, and the prosperity that make America the greatest and most diverse nation the world has ever known.

And that is why, though we lawyers are – as a group – much maligned, I continue to believe that to become a lawyer is to join a noble profession.

And you are, every one of you, lucky beyond belief that you are today crossing the threshold from mere bystander to participant in the world's greatest legal system. Why is that?

Because there is no one better situated to promote equality, preserve liberty, and prevent cruelty than the person who has genuinely dedicated himself to becoming both a master and a servant of the law.

And so I pray that you dedicate yourself to that in the years to come.

In the end, giving yourself to the law is an act of almost spectacular idealism, for it bespeaks an abiding faith in the possibility of self-governance, the power of rationality, and the peaceful resolution of disputes.

And so the system of laws in this country, I believe, deserves deep respect. And we should have deep faith in it. But that faith should never be blind.

Because, notwithstanding everything I have just said about the law's majesty and power, the law can never – by itself – fully guarantee anyone's rights and freedoms or ensure any nation's greatness or secure any society's fairness.

The law is an amazing force, but any system of laws has natural limits.

The law, for example, is not in the business of forgiveness or redemption.

The law cannot compel us to love each other or respect each other.

It cannot cancel hate or conquer evil; teach grace or extinguish passions.

The law can never achieve these things, by itself.

It takes people.

And so if we want less hate and less strife; if we want more understanding and more harmony; if we want communities to heal and discrimination to end; if we want violence to ebb and freedom to expand and justice to reign; if we want the best of what the law promises its citizens, it will take good people – not merely good laws and good lawyers – to achieve it.

Now, you graduates in the Class of 2013 are all very smart and successful. And each of you is receiving a coveted diploma as concrete proof of that.

But there are lots of smart people. And there are lots of talented people. And lots of credentialed people.

But in the end, if the law is to achieve its noble aims, character will always trump credentials.

Character matters because the people in the process matter.

Character matters because, every day, the law's best aims are carried out, for good or ill, by human beings.

The law may have a long arm, but it does not have an invisible hand.

Justice is served, or thwarted, by human beings.

Punishment is imposed, or withheld, by human beings.

Mercy is bestowed, or refused, by human beings.

After all, it is the flesh-and-blood lawyer who chooses how hard to work, which risk to take, which argument to push, which offer to accept, which line to draw in the sand, and which client's cause to make his own.

And likewise, it is the flesh-and-blood judge who decides, who rules, who sentences, and who ultimately succeeds – or fails – in doing justice.

And that is why character matters.

Because no amount of education or training or tutelage – even at Fordham – can take the place of wisdom borne of good judgment and character.

And, equally, no statute or rule or regulation – no matter how well-intentioned or expertly-drafted – can guarantee that justice will be done in the individual case, if the people entrusted with the law's enforcement or interpretation are not, at bottom, good people.

And so whether you are one day privileged to wear a robe or wield a subpoena, defend a criminal or counsel a company, decency and discretion will always trump mere legal knowledge and well-written laws.

One of our most respected jurists, Learned Hand, once made the point better than anyone. In a speech in 1944, he said this:

"I often wonder whether we do not rest our hopes too much upon constitutions, upon laws, upon courts. These are false hopes, believe me these are false hopes. Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court, can save it."

And so please always keep liberty and justice in your hearts. And think from this day forward what you can do with the diploma you have just earned. Because what you can do is truly limitless.

Because the potential power of a law degree is, I believe, unmatched in American society.

Because the power of your degree confers on you a degree of power that few possess, fewer know how to use, and fewer still know how to put to good purpose.

And I hope you will use that power – because this is the world we live in now.

- We have maniacs who massacre young children as they sit in school;
- We have terrorists who kill and maim innocent runners by converting pressure cookers into bombs;
- We have violent gangs that are decimating populations;
- We have schemers who steal the life savings of the elderly and the infirm;
- Wall Street players who think that the rules apply only to everyone else;
- Politicians who think bribery is a birthright rather than a bar to service;
- We have corporations that look away from their duties to keep our air clean and our water pure;
- We have nation states that are engaging in massive cyber espionage against U.S. industry;

- We have discrimination, and even deadly violence, against people because of what they look like or whom they choose to love;
- We have too much carbon dioxide in our atmosphere, too much deterioration in our infrastructure, too much red tape in our government, and too much gridlock in our Congress.
- And the likelihood is that by the time the next Fordham class graduates, we will be facing other yet-unknown threats and challenges.

Now I have spent some time painting maybe too bleak a picture of the world that you graduates are inheriting from the older generation. But what can I say? Your parents screwed up a lot of stuff.

And so, given where the world is at this moment, I have a simple request (which is the prerogative of the commencement speaker):

- from time to time in your career, find some small way to show that lawyers can make not just a living but also a difference;
- find some small way to show that lawyers can work the occasional little miracle;
- find some way to show that, at a time when so many cynics believe that so many attorneys are either demons or devils, that lawyers can, sometimes, be angels too.

Now I know that for many people in the outside world, who sit at a distant remove from this celebration and who are not giddy from graduation, talk of lawyers as angels or as miracle workers is downright laughable.

But I submit, a part of your responsibility – not only to your profession but also to yourselves and to your country – is to find ways to wipe the cynical smiles from those skeptics' faces.

And you need to find ways to do that – not just to prove people like Dr. Holmes wrong – but because the world, as it is, needs good people now more than ever before.

And you can find inspiration for action everywhere you look.

The inspiration is there – in thousands of tiny acts of faith that quietly take place every day in courtrooms and client meetings all over the country – each a small miracle of service that helps to lift up a person or a person's station or spirit.

When a poor tenant is illegally evicted from an apartment and receives assistance in housing court, that's a lawyer who helped give that woman her home back.

When a man is unfairly fired because of his age or his color and is then reinstated after a court case, that's a lawyer who helped give that man his job back.

And when a woman is wrongly convicted of a murder she did not commit and is finally released after years in prison, that's a lawyer who helped give that woman her life back.

I believe that every time a mere lawyer can bring someone relief or shelter or hope or peace or justice, or a job, that's a small miracle for the human being on the receiving end.

Now, vanishingly few lawyers will ever prove themselves to be as influential as Oliver Wendell Holmes, Jr.

Not every lawyer can be a great man or woman. But every lawyer can aspire to greatness.

No lawyer can solve every problem or achieve every goal. But every lawyer can, and must, try.

And every lawyer can do good things along the way.

Because lawyers like you are better situated than anyone else to work, over time, small miracles of change and justice, provided you have faith in the law's potential and, more importantly, faith in your own potential.

In my office, every Assistant U.S. Attorney, after publicly swearing an oath to uphold the Constitution, is also given a framed copy of a passage written by one of my predecessors, Whitney North Seymour, Jr., when he was the U.S. Attorney more than 40 years ago.

And at the end of that moving message about the special responsibilities that fall on every Assistant U.S. Attorney's shoulders, Seymour offers a fitting word of advice aimed at the hearts of young idealistic lawyers upon the commencement of their public service careers.

But, I think, his advice is just as fitting at this Commencement.

And what Seymour preaches is this: "One's basic credo should agree with Thomas Paine's: 'The world is my country, all mankind are my brethren, and to do good is my religion.'"

And so, to the Class of 2013, whatever faith you otherwise profess, I hope that you also maintain faith in Thomas Paine's credo, and I pray that doing good becomes part of your religion as well.

Congratulations and good luck to all of you.

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